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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5258 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

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GUJARAT FISHERIES CENTRAL COOPERATIVE ASSOCIATION LTD

Versus

VIJAYBAHADUR RAMRUP MALLIK

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Appearance:

MR DM AHUJA for Petitioner

MR TR MISHRA for Respondent No. 1

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CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 31/07/98

ORAL JUDGEMENT

Rule. Mr. T.R.Mishra waives service of notice of Rule on behalf of respondent.

This petition is filed to challenge the award passed by the Labour Court, Ahmedabad in Reference No. 1865 of 1996 12.2.98. By the said award the Labour Court had directed the reinstatement of the respondent and to pay 75% of back wages. It is claimed by the petitioner that the petitioner wanted to examine the person with whom the respondent was working in order to show that the respondent therein was in employment during the period of termination and consequently he was not to claim and get any back wages. But the prayer of the petitioner to summon said person has been rejected on the ground that sufficient opportunity was given to the petitioner to lead evidence on that point. The respondent has been reinstated and both the sides have agreed that the matter should be remanded back to the Labour Court, Ahmedabad to consider the only question as to whether the respondent workman is entitled to get back wages and if 'yes' at what rate and for what period. The Labour Court should allow the application of the present petitioner to summon the witness. The applicant would be at liberty to ask for bailable warrant if he want to have presence of the witness. Said prayer for bailable warrant is necessitated as the witness avoided to remain present though he was summoned on previous occasion . The Labour Court should decide said application after giving opportunity to the applicant to examine the said witness and to produce any other materials if so desired and to dispose of said proceedings according to law.. I direct the parties to appear before the Labour Court, Ahmedabad on 17.8.98. The Labour Court is directed to pass the award on or before 21.9.1988. In the circumstances the petition deserves to be allowed. Rule is made absolute. No order as to costs.

(S.D.Pandit.J)